

MEETING OF THE BOARD OF EQUALIZATION

APRIL 10, 2012

The Board of Equalization met per state statute on April 10, 2012 at the hour of 5:15 p.m. in the Tom Baker Meeting Room, City and County Office Building, 221 North Fifth Street, Bismarck, North Dakota. There were present: Commissioners Seminary, Smith, Askvig, Grossman and President Warford.

A Chaplain of the Bismarck Police Department presented the invocation.

The Board of Equalization received the 2012 report of the Bismarck Assessing Division.

Debra Goodsell, Acting City Assessor, appeared before the Board of Equalization and presented a summary of the 2012 assessment roll and real estate value and commercial activity up to December 2011. She stated that the 2012 assessment roll total market value is \$4,849,803,400, an increase from the 2011 assessment roll of \$330,792,900 or 7.32%. Of this increase, new construction contributed \$123,747,000 and market value contributed \$194,032,500 with the balance attributed to prorations, abatements and changes in assessment. She stated that existing commercial properties increased an average of 4.70%; existing residential properties increased an average of 4.11%. This report is available in the City Assessing Office for review.

Ms. Goodsell said as required by state law, if a property value has increased more than 10 percent or \$1,500 in assessed value, notices are mailed to the property owners. Approximately 1,700 notices were mailed this year to property owners whose values increased more than the 10 percent. The assessing staff has received one formal letter of intent for appeal of the 2012 assessment received from Menards home improvement store. Staff requests that letter of appeal be handled through the abatement process pursuant to state law, as Menards has not submitted any information as of today.

Ms. Goodsell requested approval of the assessment roll as presented and that any appeals be done through the abatement process.

Commissioner Grossman made a motion to approve the assessment roll as submitted. Commissioner Seminary seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried.

The Board of Equalization adjourned and convened as the Board of City Commissioners.

Steve McNichols appeared before the Board to speak about his home's assessed value and said wasn't aware, other than showing up for the Board of Equalization, that he needed to contest his valuation through the abatement process.

The Board of City Commissioners adjourned and convened as the Board of Equalization.

Steve McNichols, 4819 Granite Drive, appeared before the Board to contest the 2012 valuation of his home. He said his 2011 valuation was low because the home was under construction at the time. The home is completed and they are living in it. His points of contention in speaking with the city assessor are:

- 1) His home was compared in his neighborhood only to other properties built by the same builder who built his home, Hallmark Homes.
- 2) Someone known to the assessor, went to the builder and requested they build a home exactly like his home and because the dollar amount given to the person was larger than the value the McNichols family purchased the home for, he was told that the assessor knows his home is worth more than it was purchased for.
- 3) The assessor's valuation, more than doubling the value of the home, exceeds the valuation set by the bank when the family refinanced their home two days prior to receiving the letter from the Assessing Division.

Mr. McNichols contests the assertion that the size of the home should dictate the value without regard to what is in the home (flooring, cabinetry, etc). He also contests valuation of his home being driven by the reality of the market. When they built their home, they targeted the Parade of Homes to receive reductions on products to be used in the home to compensate for the marketing of those items. Construction costs have risen but he doesn't feel that inherently raises the value of his home. Starion Financial valued their home at \$80,000 less than the valuation placed by the city on their home thereby turning their mortgage upside down. He has no problems paying taxes and moved from Mandan to build a home in Bismarck. Mr. McNichols requested to set the valuation for 2012 at the valuation set by Starion Financial when they redid their mortgage two weeks ago.

Debra Goodsell, Acting City Assessor, said the assessor assigned to that area of town has spoken to Mr. McNichols on several occasions. Construction on 4819 Granite Drive began in October 2010 and as of February 1, 2011, it only had a partial value on it. The 2011 market value was at \$226,100. The home was completed in April of 2011 with the date of purchase being April 21, 2011. The property was valued completed for 2012 tax year at \$527,900. The homeowner called the Assessing office on March 26, 2012 to discuss the value increase. Mr. McNichols felt the valuation increase was too much to happen within one year. The appraiser explained the property only received a partial valuation the previous year and the home was completed for the 2012 tax year. Mr. McNichols called again on April 4, 2012 to set up a time to review his property. He later called back and left a message asking that the property not be reviewed. He had an appraisal from the time they purchased the property which put the value at \$450,000 and expected the value determined by the city to be lowered to the \$450,000. The appraiser spoke to Mr. McNichols again on April 10, 2012, and explained the tax value is based on a different method of valuation than a real estate appraisal. The appraiser said the office would look at the appraisal and determine if it was a feasible tax appraisal. The owner would not have time to come to the office but would be at the

Board of Equalization. The appraiser looked again at the information for the property and has agreed to reduce the value to \$497,300 for the 2012 tax year. After reviewing information of similar properties built by similar builders, it was determined that they sold for approximately \$179 to \$206 per square foot without the cost of the land. The appraiser used the square foot value without land due to value of land differences in the different subdivisions throughout the city. The appraiser also reviewed similar homes in the neighborhood and their 2012 market values ranged from \$214 to \$247 per square foot including the land. The same neighborhood home sold from \$214 to \$247 per square foot in 2009 and 2011. The subject's property is valued at \$190 a square foot for the building and including the lot it will be valued at \$209 a square foot. The home was part of the 2011 spring Parade of Homes listed at \$499,900 or \$210 per square foot with the lot not including special assessments that the purchaser assumed. Prior to closing, a local bank called for a tax estimate and they gave the Assessing staff an estimated value of the property at \$535,086 or \$225 per square foot not including the specials. The property closed on April 21, 2011. It was a confidential sale, meaning staff received no sales information. Based on the available information, Assessing staff feels the valuation of \$497,300 is appropriate after looking at homes in the same neighborhood built by the same builder as well as homes built by other builders; also homes comparable in size, type, quality and number of amenities are valued similarly. Purchasing this home from the Parade of Homes, doesn't mean the home is less valuable than a home that anyone else would purchase at full price.

President Warford said the original amount was \$527,900 and the Assessing staff has reduced it to \$497,300 and Mr. McNichols is requesting \$450,000. Ms. Goodsell said that is correct. She said they value homes based on their size, type, quality, number of amenities (granite countertops versus Formica, type of flooring, triple garage, central air, etc). Commissioner Askvig asked if the earlier motion about accepting the report and handling appeals through the abatement process is still in effect. He appreciates Mr. McNichols appearing but doesn't want to do anything as a Board that might affect his appeal at a later date. Ms. Goodsell says by Mr. McNichols appearing before the City Board of Equalization, it gives him the right to appear at the County Board and the State Board; if he doesn't appear before the city first, he can't appear at the others. President Warford said the earlier motion to accept the report and refer all appeals to the abatement process still stands.

The Board of Equalization adjourned and convened as the Board of City Commissioners.

MEETING OF THE BOARD OF CITY COMMISSIONERS

APRIL 10, 2012

The Board of City Commissioners met in regular session on April 10, 2012 at the hour of 5:32 p.m. in the Tom Baker Meeting Room, City/County Office Building, 221 North Fifth Street, Bismarck, North Dakota. There were present: Commissioners Seminary, Smith, Askvig, Grossman and President Warford.

President Warford asked for a point of clarification that the city's Assessing staff would like to know that everyone wanting to appear before the Board of Equalization has done so. No one appeared.

1. The Board of City Commissioners considered approval of the minutes of the meeting on March 27, 2012.

Commissioner Seminary made a motion to approve the minutes. Commissioner Askvig seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried.

2. CONSENT AGENDA

A. The Board of City Commissioners considered and approved voucher numbers 1027106 to 1027495.

B. The Board of City Commissioners reviewed the personnel actions.

C. The Board of City Commissioners considered changes to the following:

- Legislative Services Policy
- Sick Leave Policy
- Voluntary Termination of Employment Policy

D. The Board of City Commissioners called for a public hearing on request to locate a new Class C-2 liquor license at 2801 Gateway Avenue (dba Staybridge Suites).

E. The Board of City Commissioners considered approval of lease renewal for Hamid Basirat (Electrolux Vacuum Services) for three years in the 5th & Bowen Commercial Center.

F. The Board of City Commissioners considered the following requests from the Police Department:

- Permission to sell found/abandoned property at the annual Police auction. The annual Police auction is scheduled for May 19, 2012. The Police Department has no surplus or obsolete property to sell at this year's auction. Staff requests permission to dispose of found/abandoned property that staff currently has in their custody at the auction.
- Permission to apply for JAG grant through United States Bureau of Justice Assistance. The 2012 allocation of Bureau of Justice Assistance JAG grants has recently been released. The amount designated for Bismarck/Burleigh County is \$34,932.00 and there is no requirement for matching funds. This grant is shared with the Burleigh County Sheriff's Department who will receive 35 percent or \$12,226.20 of the grant. The Bismarck Police Department will receive 65 percent or \$22,705.80. The

purpose of the grant is to purchase operational equipment. There are no FTE's associated with this grant and there are no known on-going costs after phase out. Staff requests the Board's permission to apply for and receive this grant.

G. The Board of City Commissioners considered request from Civic Center for permission to transfer funds for Exhibit Hall floor polishing project. Staff requests permission to transfer funds from the Exhibit Hall Building Improvement Fund to the Exhibit Hall Repair/Maintenance Building. This will allow the funds to be made available for the future floor polishing project granted the bids received are within the scope, purpose and amount budgeted for this project. These bids would be reviewed and awarded by the commission at a later date. The project details include the installation of a Dry Polished Concrete Floor Finish System by dry surface grinding/polishing of the existing concrete Exhibit Hall floor of the Civic Center. The project budget amount is \$154,000.

H. The Board of City Commissioners considered the following from Engineering Department:

- Request for Supporting Our Troops to place yellow ribbons on light standards in central business district between First Street and Seventh Street and Main Avenue to Rosser Avenue, around the Federal Post Office building, and the Band Day Parade route between the State Capital grounds and Bismarck Civic Center. This is a show of support for those military personnel serving our country. The ribbons are permitted from May 4, 2012 to September 30, 2012.
- Request to place ribbons on light standards in central business district by Federation of Families for Children's Mental Health. This will be in support of Children's Mental Health Awareness Week from May 6 through May 12, 2011.
- Request for sole source purchase of robotic total station for surveying and associated accessories. Staff requests permission to purchase one Robotic Total Station for the Engineering Department at a cost of \$33,210. This cost does include additional accessories such as computer cables, charging cables and survey rod required to utilize the Robotic Total Station. The Robotic Total Station and the associated accessories are included in the Engineering Department 2012 financial plan through a one-time expenditure.
- Request from Ridgefield Condominium Association and Ridgefield Homeowners Association for Encroachment and Waiver Agreement. The Ridgefield Condominium Association and Ridgefield Homeowners Association are requesting the right to install and maintain a storm sewer under the public right-of-way on Calgary Avenue.
- Proposed changes to "Policies and Procedures in Developing Subdivisions in the City of Bismarck".

During a periodic review of the referenced policies and procedures

document pertaining to subdivision development, it was proposed that two changes be made to the Development Costs Policy. The first change is in regard to the prepayment of trunk line utility charges. The second change establishes a minimum threshold for which a Certificate of Deposit would be held. Additional language was added to the policy for the purposes of clarifying current practice.

On March 28, 2012, a letter was mailed to approximately 30 known developers and 12 representatives of consulting firms that do the majority of the land development work in Bismarck, informing them of the proposed changes to the policy. A copy of this letter was provided to the Board. The letter also indicated that the proposed changes would be placed on the Board's agenda for the April 10, 2012 meeting for possible adoption and requested any feedback be provided prior to the meeting. To date, only one telephone inquiry has been received regarding the proposed changes to the development policy.

A copy of the proposed policy, as well as a copy of the existing policy, was provided for the Board's review. Action requested of the Board is approval of the proposed policy. The suggested implementation date of the policy would be upon adoption by the Board.

I. The Board of City Commissioners considered the following relating to Street Improvement District 450 (resurface 39 blocks of pavement and reconstruct 6 blocks of pavement):

- Request for Resolution Approving Plans and Specifications
- Request to Create Resolution of Necessity
- Request for Authorization to Advertise and Receive Bids

Commissioner Grossman introduced the following resolution and moved its adoption:

**RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR
STREET IMPROVEMENT DISTRICT NUMBER FOUR HUNDRED FIFTY (450)**

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that the plans and specifications for the work proposed to be done in and for Street Improvement District Number Four Hundred Fifty (450), as prepared by the engineer and presented to the Board of City Commissioners on this date, are hereby approved and ordered to be placed on file in the office of the City Administration and in the office of the City Engineer, where they shall remain on file and subject to inspection by anyone interested therein.

Commissioner Smith seconded the motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

Commissioner Grossman introduced the following resolution and moved its adoption:

RESOLUTION OF NECESSITY

RESOLUTION DECLARING THE NECESSITY OF AN IMPROVEMENT IN STREET IMPROVEMENT DISTRICT NUMBER FOUR HUNDRED FIFTY (450)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. It is hereby found, determined and declared that it is necessary and expedient for the City of Bismarck to construct an improvement in and for Street Improvement District Number Four Hundred Fifty (450) such improvement to consist of resurface approximately 39 blocks where pavement is patched, leveled, milled, overlaid, chip sealed, curbs repaired, and to reconstruct approximately six blocks where pavement is removed and replaced with asphaltic pavement, curb repairs, and related work, for the following areas:

Unit No. 1

Mahone Avenue – Lockport Street to 642' west
Alberta Avenue – Lockport Street to Dominion Street
Breton Drive – Lockport Street to Dominion Street
Chambly Avenue – Lockport Street to Dominion Street
Mouton Avenue – Lockport Street to Dominion Street
Dominion Street – Mouton Avenue to 217' north of Breton Drive

Unit No. 2

Burnt Boat Drive - North Grandview Lane to 393' west of Broadview Lane
Broadview Lane - North Grandview Lane to Burnt Boat Drive
North Grandview Lane - Burnt Boat Drive to South Grandview Lane
South Grandview Lane - North Grandview Lane (E) to North Grandview Lane (W)

Unit No. 3

Divide Avenue - Hancock Drive to 1366' east
Hancock Drive - Divide Avenue to Revere Drive (S)
Revere Drive - 180' east of Bismarck Expressway to Hancock Drive (N)

All in accordance with and as described in the resolution creating said district, adopted March 27, 2012, the preliminary report of the engineer, approved by this Board on March 27, 2012, and the plans and specifications for the improvement prepared by the engineer and approved by this Board on April 10, 2012, which are on file in the office of the City Engineer, and subject to inspection by anyone interested therein.

2. The cost of the improvement will be paid for by special assessments to be levied against properties benefited by the improvement in amounts proportionate to and

not exceeding such benefits. The estimated cost by the Engineer for said improvements is in the amount of \$2.14 million

3. The Special Assessment Analyst is hereby authorized and directed to cause this resolution, together with a map of the city showing the improvement district, to be published once each week for two consecutive weeks in the official newspaper of the City. The owners of property within said improvement district and liable to be specially assessed for said improvement shall be afforded the opportunity to file written protests with the Special Assessment Analyst at any time within thirty (30) days after the first publication of this resolution. The Board of City Commissioners shall, at its next meeting after the expiration of said period, to-wit, May 22, 2012, at 5:15 p.m. meet at the City Hall for the purpose of hearing and determining the sufficiency of any protests so filed and to take such other and further action with reference to said improvement as may then be deemed necessary and expedient.

Commissioner Smith seconded the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

Commissioner Grossman introduced the following resolution and moved its adoption:

**RESOLUTION DIRECTING ADVERTISEMENT FOR BIDS FOR
STREET IMPROVEMENT DISTRICT NUMBER FOUR HUNDRED FIFTY (450)**

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that proposals for the work of making the improvement in Street Improvement District Number Four Hundred Fifty (450), according to plans and specifications heretofore approved by this Board, shall be received on May 8, 2012, at the hour of 3:00 o'clock p.m. Advertisement for such proposals shall be published as required by Section 40-22-19, North Dakota Century Code.

Commissioner Smith seconded the motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

J. The Board of City Commissioners considered the following requests relating to Street Improvement District 446 (new pavement, curb and gutter, ADA ramps, sidewalk and related work):

- Resolution Creating Street Improvement District 446 and Ordering Preparation of Preliminary Engineering Reports
- Resolution Approving Preliminary Reports and Directing Preparation of Plans and Specifications
- Resolution Approving Plans and Specifications

- Resolution Declaring Petition for Improvement has been received
- Authorization to Advertise and Receive Bids

Commissioner Grossman introduced the following resolution and moved its adoption:

**RESOLUTION CREATING
STREET IMPROVEMENT DISTRICT NUMBER FOUR HUNDRED FORTY SIX (446)
AND ORDERING THE PREPARATION OF A PRELIMINARY REPORT**

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. Pursuant to the provisions of Chapter 40-22 of the North Dakota Century Code, Street Improvement District Number Four Hundred Forty Six (446), is created for the purpose of making an improvement project, consisting of new pavement, curb and gutter, ADA ramps, sidewalk and related work, and to defray all or a portion of the costs thereof by the levy and collection of special assessments in said District.
2. It is the judgment of this Board of City Commissioners, after consultation with the engineer planning the improvement for the City that construction of the improvement project will specially benefit all of the properties within the district, the size and form of which is defined by reference to the plats of the City of Bismarck on file in the office of the County Recorder of Burleigh County, North Dakota, and the district shall include all lots, tracts and parcels of land lying within the following described boundary:

UNIT NO. 1

LOTS TEN (10) THROUGH TWELVE (12), BLOCK ONE (1), LOTS ELEVEN (11) THROUGH EIGHTEEN (18), BLOCK FOUR (4), LOTS ONE (1) THROUGH SEVEN (7), BLOCK FIVE (5), LOTS ONE (1) THROUGH FOUR (4), BLOCK SIX (6), HORIZON HEIGHTS FIFTH ADDITION.

UNIT NO. 2

LOTS TWO (2) THROUGH NINE (9), BLOCK ONE (1), ALL OF BLOCK TWO (2), LOTS ONE (1) THROUGH THIRTEEN (13) AND EIGHTEEN (18) THROUGH TWENTY-FOUR (24), BLOCK THREE (3), SONNET HEIGHTS SUBDIVISION FIFTH REPLAT; LOTS NINE (9) THROUGH SEVENTEEN (17), BLOCK TWENTY-TWO (22), LOT THREE (3), BLOCK TWENTY-THREE (23), SONNET HEIGHTS SUBDIVISION.

3. The engineer is directed to prepare a report as to the general nature, purpose and feasibility of the proposed improvement and an estimate of probable cost of the work.

Commissioner Smith seconded the motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Seminary, Smith, Askvig,

Grossman and President Warford. Naves: None, the motion carried and said resolution was declared duly passed and adopted.

Commissioner Grossman introduced the following resolution and moved its adoption:

RESOLUTION APPROVING PRELIMINARY REPORT AND DIRECTING THE
PREPARATION OF PLANS AND SPECIFICATIONS FOR
STREET IMPROVEMENT DISTRICT NUMBER FOUR HUNDRED FORTY SIX (446)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that this Board has received and considered the report of the engineer as to the general nature, purpose and feasibility of the proposed improvement in and for Street Improvement District Number Four Hundred Forty Six (446), and an estimate of the probable cost of the work, and approved the report and directs it to be filed in the City Administration office and the City Engineer's office, and directs the engineer to prepare detailed plans and specifications for the construction of the improvement and to submit the same to this Board of City Commissioners.

Commissioner Smith seconded the motion on the foregoing resolution. Upon roll call the Commissioners voted as follows. Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Naves: None, the motion carried and said resolution was declared duly passed and adopted.

Commissioner Grossman introduced the following resolution and moved its adoption:

RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR
STREET IMPROVEMENT DISTRICT NUMBER FOUR HUNDRED FORTY SIX (446)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that the plans and specifications for the work proposed to be done in and for Street Improvement District Number Four Hundred Forty Six (446), as prepared by the engineer and presented to the Board of City Commissioners on this date, are hereby approved and ordered to be placed on file in the office of the City Administration and in the office of the City Engineer, where they shall remain on file and subject to inspection by anyone interested therein.

Commissioner Smith seconded the motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Naves: None, the motion carried and said resolution was declared duly passed and adopted.

Commissioner Grossman introduced the following resolution and moved for its adoption:

RESOLUTION DECLARING PETITION FOR STREET IMPROVEMENT DISTRICT
NUMBER FOUR HUNDRED FORTY SIX (446) HAS BEEN RECEIVED

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that it is hereby found and determined that a written petition signed by owners of a majority of the area of property included within Street Improvement District Number Four Hundred Forty Six (446), has been received and that, therefore, it is not necessary to publish a Resolution Declaring Work Necessary for improvements in Street Improvement District Number Four Hundred Forty Six (446).

Commissioner Smith seconded the motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

Commissioner Grossman introduced the following resolution and moved its adoption:

**RESOLUTION DIRECTING ADVERTISEMENT FOR BIDS FOR
STREET IMPROVEMENT DISTRICT NUMBER FOUR HUNDRED FORTY SIX (446)**

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that proposals for the work of making the improvement in Street Improvement District Number Four Hundred Forty Six (446), according to plans and specifications heretofore approved by this Board, shall be received on May 7, 2012, at the hour of 3:00 o'clock p.m. Advertisement for such proposals shall be published as required by Section 40-22-19, North Dakota Century Code.

Commissioner Smith seconded the motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

K. The Board of City Commissioners considered the request from the Bismarck Airport for sale of surplus items at the Bismarck Police Auction. A list of the surplus equipment was provided to the Board.

L. The Board of City Commissioners considered the request from the Fire Department for sale of surplus items at the Bismarck Police Auction. A list of the surplus equipment was provided to the Board.

M. The Board of City Commissioners considered request from Public Works Service Operations Department for permission to scrap one 1979 Chevrolet Bruin Single Axle truck that is beyond economical repair. The vehicle is unsafe and staff requests permission to dispose of the unit. Due to the unit not running, sale at the Police auction is not recommended since the auctioneer request that items be in working order.

N. The Board of City Commissioners considered the following from

Community Development Department:

- Request to reappoint Wayne Yeager and Mike Schwartz to the City Planning & Zoning Commission for five year terms, ending in April 2017.
- Introduction and call for public hearing on the following. Bismarck Planning & Zoning Commission recommends approval on all items.
 - Ordinance 5874 relating to annexation of part of Horizon Heights Fifth Addition, requested by Mitzel Builders, Inc.

ORDINANCE NO. 5874

AN ORDINANCE ANNEXING PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF BISMARCK, NORTH DAKOTA, DECLARING THE TERRITORY ANNEXED; DECLARING THE SAME TO BE A PART OF THE CORPORATE LIMITS OF SAID CITY.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA.

Section 1. Territory Annexed. The territory and land hereinafter described is hereby declared and found to be a part of the corporate limits of the City of Bismarck, North Dakota, as follows:

Lots 1-9, Block 1; Lots 1-8, Block 2; Lots 1-8, Block 3; Lots 1-10, Block 4; Lots 5-7 & 16, Block 6; and Lots 1-3 & 7, Block 7, Horizon Heights Fifth Addition.

The above described tract of land contains 21.29 acres, more or less.

Section 2. Provisions Applicable. From and after the final passage and adoption of this Ordinance and upon recording of this ordinance with the Burleigh County Recorder, the territory herein described shall be a part of the corporate limits of the City of Bismarck, North Dakota.

- Ordinance 5875 relating to annexation of Kilber North Addition, requested by Kilber Development, LLC.

ORDINANCE NO. 5875

AN ORDINANCE ANNEXING PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF BISMARCK, NORTH DAKOTA, DECLARING THE TERRITORY ANNEXED; DECLARING THE SAME TO BE A PART OF THE CORPORATE LIMITS OF SAID CITY.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA.

Section 1. Territory Annexed. The territory and land hereinafter described is hereby declared and found to be a part of the corporate limits of the City of Bismarck, North Dakota, as follows:

Lots 1-14, Block 1 and Lots 1-7, Block 2, Kilber North Addition.

The above described tract of land contains 12.22 acres, more or less.

Section 2. Provisions Applicable. From and after the final passage and adoption of this Ordinance and upon recording of this ordinance with the Burleigh County Recorder, the territory herein described shall be a part of the corporate limits of the City of Bismarck, North Dakota.

- Ordinance 5876 relating to zoning change for Kilber North Addition, requested by Kilber Development, LLC.

ORDINANCE NO. 5876

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the A-Agriculture zoning district and included in the R5-Residential zoning district:

Lots 3-7, Block 2, Kilber North Addition.

Section 2. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the A-Agriculture zoning district and included in the R10-Residential zoning district:

Lots 2-14, Block 1 and Lot 2, Block 2, Kilber North Addition.

Section 3. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the A-Agriculture zoning district and included in the RM30-Residential zoning district:

Lot 1, Block 1, Kilber North Addition.

Section 4. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the A-Agriculture zoning district and included in the RT-Residential zoning district:

Lot 1, Block 2, Kilber North Addition.

Section 5. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 6. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

- Ordinance 5877 relating to zoning change for Madison Lane Addition, requested by Frank Wagner, Kenneth Reno and Landmark Venture Capital, LLC.

ORDINANCE NO. 5877

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the R10 – Residential District and included within the PUD – Planned Unit Development District.

Lots 1-41, Block 1, Madison Lane Addition.

This PUD is subject to the following development standards:

1. *Uses Permitted.* Permitted uses include single-family dwellings and a private park and playground area. Any change in the use of the property will require an amendment to this PUD. All other uses not included shall be prohibited.
2. *Development Standards.* Each buildable lot shall have an area of not less than 5,000 square feet, a front property line width of not less than 40 feet

measured 40 feet from the property line, and a front yard setback of 20 feet measured from the edge of the access easement. Each buildable lot shall have two side yards with a minimum side yard setback of six feet on each side of the home. All other development standards, including lot coverage and height limits shall be the same as the R5-Residential standards.

3. *Density.* The maximum allowable density shall be 40 units.

Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

- Ordinance 5878 relating to zoning change for Sattler's Sunrise Ninth Addition, requested by Sattler Homes, Inc.

ORDINANCE NO. 5878

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the A-Agriculture zoning district and included in the R5-Residential zoning district:

Lots 1-24, Block 1; Lots 1-28, Block 2; Lots 1-28, Block 3; Lots 1-11, Block 4; and Lots 1-2, Block 5, Sattler's Sunrise Ninth Addition.

Section 2. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the A-Agriculture zoning district and included in the P-Public zoning district:

Lot 25, Block 1, Sattler's Sunrise Ninth Addition.

Section 3. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

- Ordinance 5879 relating to annexation of SouthBay Fourth Addition, requested by SouthBay Development, LLC.

ORDINANCE NO. 5879

AN ORDINANCE ANNEXING PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF BISMARCK, NORTH DAKOTA, DECLARING THE TERRITORY ANNEXED; DECLARING THE SAME TO BE A PART OF THE CORPORATE LIMITS OF SAID CITY.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA.

Section 1. Territory Annexed. The territory and land hereinafter described is hereby declared and found to be a part of the corporate limits of the City of Bismarck, North Dakota, as follows:

Lots 2-22, Block 1 and Lots 1-69, Block 2, SouthBay Fourth Addition

The above described tract of land contains 11.63 acres, more or less.

Section 2. Provisions Applicable. From and after the final passage and adoption of this Ordinance and upon recording of this ordinance with the Burleigh County Recorder, the territory herein described shall be a part of the corporate limits of the City of Bismarck, North Dakota.

- Ordinance 5880 relating to zoning change for SouthBay Fourth Addition, requested by Corey Botner and SouthBay Development, LLC.

ORDINANCE NO. 5880

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the A-Agriculture zoning district and included in the RR-Residential zoning district:

Lot 1, Block 1, SouthBay Fourth Addition.

Section 2. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the A-Agriculture zoning district and included in the RM10-Residential zoning district:

Lots 2-22, Block 1 and Lots 1-69, Block 2, SouthBay Fourth Addition

Section 3. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

- Ordinance 5881 relating to annexation of Legacy Addition, requested by First United Methodist Church.

ORDINANCE NO. 5881

AN ORDINANCE ANNEXING PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF BISMARCK, NORTH DAKOTA, DECLARING THE TERRITORY ANNEXED; DECLARING THE SAME TO BE A PART OF THE CORPORATE LIMITS OF SAID CITY.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA.

Section 1. Territory Annexed. The territory and land hereinafter described is hereby declared and found to be a part of the corporate limits of the City of Bismarck, North Dakota, as follows:

Lots 1 & 2, Block 1, Legacy Addition.

The above described tract of land contains 17.62 acres, more or less.

Section 2. Provisions Applicable. From and after the final passage and adoption of this Ordinance and upon recording of this ordinance with the Burleigh County Recorder, the territory herein described shall be a part of the corporate limits of the City of Bismarck, North Dakota.

- Ordinance 5882 relating to zoning change for Legacy Addition, requested by First United Methodist Church.

ORDINANCE NO. 5882

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the A-Agriculture zoning district and included in the RT-Residential zoning district:

Legacy Addition

Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

- Ordinance 5883 relating to zoning change for Lots A & B of Lot 1, Block 1, Edgewood Village First Addition requested by Pride, Inc. and the City of Bismarck.

ORDINANCE NO. 5883

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the RM15-Residential zoning district and included in the RT-Residential zoning district:

Lot A of Lot 1, Block 1, Edgewood Village First Addition.

Section 2. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the RM15-Residential zoning district and included in the P-Public zoning district:

Lot B of Lot 1, Block 1, Edgewood Village First Addition.

Section 3. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

Commissioner Askvig asked to pull the first two bullets under Consent Agenda Item C relating to policy changes for Legislative Services Policy & Sick Leave Policy. Commissioner Grossman made a motion to approve the remaining items on the consent agenda. Commissioner Smith seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried.

Consent Agenda Item C1 (Legislative Services Policy) & C2 (Sick Leave Policy) Discussion: Commissioner Askvig is concerned with the city potentially denying the ability for an employee to run for public office. He said he won't support a policy that gives the city the right to veto a person running. He did not see an absence due to being in public office being any different than someone being out of work for an illness, illness of a family member, etc. Roles should always be able to be filled, temporarily, no matter what. He understands some concerns about double dipping so to speak. He said the only thing that one shouldn't be able to do is run for city commission if you are a city employee; you would be your own boss. He feels the department head should grant the employee leave necessary to serve if they are elected.

Commissioner Seminary thinks anyone willing to commit themselves to serve the public should be allowed to serve. It may be challenging for staff if a co-worker were elected but we must deal with challenges. President Warford doesn't think that employees should be denied the ability to run for the legislature but he is concerned that if they run for the legislature or public office and are elected that the city has to hold their job open, especially if they are in a critical position, like a department head.

Commissioner Askvig made a motion to rework the wording in the policies about veto power over an employee running for public office and bring them back before the Board. Commissioner Seminary seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried.

REGULAR AGENDA

3. The Board of City Commissioners considered request from the Downtown Business Association of Bismarck to appear to discuss parking structures along the Rosser Avenue corridor as identified in Bismarck Strategic Plan.

Kate Herzog, Marketing & Assistant Director for Bismarck Downtowners, appeared before the Board. She explained that their organization has been meeting with downtown property and business owners regarding parking along the Rosser Avenue corridor. They have recently presented to the Burleigh County Commission as well. They are looking at a ramp on Fifth Street and Avenue A. She also spoke of a plaza or downtown greenspace that would go on an empty surface lot and until there is sufficient off-street parking available, that will be difficult.

Ms. Herzog invited Commissioners Smith and Grossman, based on the portfolios that they hold, to come to an initial meeting with Burleigh County, as well as downtown property and business owners to discuss an off street parking ramp. Burleigh County owns the surface lot on Fifth Street and Avenue A. A lot of this will depend on many other factors: potential county jail expansion, medical development, etc. A meeting could be scheduled to work with a Renaissance Zone Authority, Bismarck Parking Authority or Downtown Parking Task Force meeting. She said suggestions as to city staff who should attend the meeting as well would be appreciated.

The Board took no action taken.

4. The President of the Board of City Commissioners announced the hour had arrived for the PUBLIC HEARING and second reading on Ordinance 5873 relating to traffic and bicycle lanes.

PERSONS APPEARING	REMARKS
Dr. Brian Bettie, Bismarck resident	Thanked Board for making Bismarck safer for non-vehicle traffic; he asked for clarification of language under section one, paragraph two that says "Persons riding bicycles upon a roadway may not ride more than two abreast except on paths <u>lanes</u> or parts of roadways..." He asked if that allowed riding three or four abreast?; he would assume the intent is to keep it single file which he would agree with in those areas

Charlie Whitman, City Attorney, said if the intent is to ride single file, it would be easy to add "or more" directly after "two" so it could read "two or more abreast". He suggested speaking to other city staff involved since this is not his language. Mark Berg, City Traffic Engineer, said the intent is to remain single file. In a six-foot wide lane and assuming 24-inch handlebars, two abreast won't be very comfortable for any rider.

Commissioner Seminary said this is part of the complete streets discussion and initiative. As a community, we should embrace multiple modes of transportation. It is important that our community embraces bicycles in the street. Our society is a very distracted one and needs to be more aware, no matter what form of transportation is being used. He is proud of the partnership between city staff and local bike enthusiasts who have made this effort possible.

Mr. Whitman said he believes he has better language for the proposed change. "Persons riding bicycles upon a roadway ~~may not~~ must ride ~~more than two abreast~~ single file ~~except on paths~~ lanes or parts of roadways...

Commissioner Askvig made a motion to approve the ordinance with this revision. Commissioner Smith seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried.

5. The President of the Board of City Commissioners announced the hour had arrived for the PUBLIC HEARING on Resolution of Necessity and Award Bids relating to Street Improvement District 445 (street, sewer and water main replacement).

The President of the Board of City Commissioners announced the hour had arrived for the hearing on the Resolution of Necessity in and for Street Improvement District Number Four Hundred Forty Five (445). The records show that an affidavit is on file in the office of City Administration showing publication had been made in this regard.

The President of the Board of City Commissioners then directed the Special Assessment Analyst to present all written protests against the making of such improvement which had been filed in his office within the period of thirty (30) days from and after the first publication in accordance with provisions of Section 40-22-17 of the North Dakota Century Code as amended. The Special Assessment Analyst reported that the only protests so filed were those signed by the following persons, claiming to be the owners of property described opposite their names:

<u>NAMES OF PERSONS PROTESTING</u>	<u>DESCRIPTION OF PROPERTY</u>
Decker, Shawn	1910 North Seventh Street

The protests were then presented to, examined and considered by the Board of City Commissioners. Signers of protests and all other persons present affected by the proposed improvement as property owners or otherwise, were then afforded an opportunity to be heard by the City Commissioners as to the necessity and desirability of making said improvement as described in said resolution. The following persons appeared and the substance of their views expressed by them were as follows:

<u>NAMES OF PERSONS APPEARING</u>	<u>REMARKS</u>
(No persons appeared)	

The Special Assessment Analyst reported on the area presented by the protests against the improvement proposed for Street Improvement District Number Four Hundred Forty Five (445).

Commissioner Askvig asked the difference between a written protest and an inquiry. Kathy Feist, the Special Assessment Analyst, said a protest is a letter written by the property owner that is signed stating that they are protesting the project and inquiries are telephone calls logged as received indicating the nature of the calls (cost, construction schedule, concrete issues, etc.).

Commissioner Grossman introduced the following resolution and moved its adoption:

RESOLUTION DETERMINING INSUFFICIENCY OF PROTESTS FOR
STREET IMPROVEMENT DISTRICT NUMBER FOUR HUNDRED FORTY FIVE (445)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. This Board by resolution declared the necessity of an improvement in Street Improvement District Number Four Hundred Forty Five (445) which resolution has been published in the official newspaper of the City as required by law. The owners of property liable to be specially assessed for said improvement have been afforded an opportunity to file written protests with the Special Assessment Analyst protesting said improvement, and this Board has had its first meeting after expiration of thirty (30) days from the publication of said resolution having considered the sufficiency of all protests filed within said period.

2. Having further heard and considered all views presented by all interested persons at such hearing, and being fully advised in the premises, it is hereby found and determined that any protests against said improvement filed within the time and within the manner prescribed by law are not sufficient to bar against the proceeding further therewith, and that the City and this Board of City Commissioners are therefore authorized to cause the improvement to be made, and to contract and levy special assessments therefore, pursuant to and in accordance with provisions of Chapter 22, Title 40, North Dakota Century Code, as amended.

Commissioner Askvig seconded the motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

Commissioner Grossman introduced the following resolution and moved its adoption:

RESOLUTION AWARDING CONTRACT FOR THE CONSTRUCTION OF
STREET IMPROVEMENT DISTRICT NUMBER FOUR HUNDRED FORTY FIVE (445)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. Notice of advertisement for bids for the construction of Street Improvement District Number Four Hundred Forty Five (445) having been duly published, and all bids received pursuant to said notice having been considered, it is hereby found and determined that the lowest responsible bidder whose bid complies with law and the terms of said advertisement is Northern Improvement of Bismarck, North Dakota, and the estimated bidder's proposal for the construction of the work is \$3,509,324.28.

2. Upon the furnishing by the successful bidder of a contractor's bond in the sum not less than the amount of the contract as above estimated, with a surety company authorized to do business in the State of North Dakota, conditioned as required by the provisions of Section 40-22-31 of the North Dakota Century Code, which bond shall be furnished within ten days from the date hereof, a contract for the performance of said work pursuant to the plans and specifications on file in the office of City Administration shall be made and executed by the President and countersigned by the Assistant City Administrator.

3. The Special Assessment Analyst is hereby authorized and directed to retain the bidder's bond furnished by the successful bidder pending the approval of the contractor's bond and the execution of the construction contract, and to return the bonds of the other bidders forthwith.

Mel Bullinger, City Engineer, said the low bid was submitted by Northern Improvement Co in the amount of \$3,509,324.28. The bid amount is approximately 12.75 percent over the engineer's estimate, or \$396,690.84. Based upon detailed review of the low bid as submitted, it appears that the amount of sales tax funding necessary for this project to proceed as bid (\$2,023,023) exceeds the amount authorized (\$1.5 million) by the Board for hard surfacing street construction in 2012. There are unallocated sales tax funds of \$194,916 available for the project so the sales tax funding shortfall is \$328,107.

In discussions with the Finance Department, three possible options were identified to address the funding issue:

- 1) Scale back the project and complete fewer blocks of hard surfacing street reconstruction. The current project entails approximately 31 blocks; it is estimated that approximately six blocks of the project would need to be deleted in order for the project to be within the current available sales tax funding.
- 2) Reallocate additional sales tax monies from other 2012 projects with sales tax funding, such as the anticipated Mustang Drive or Continental Avenue groundwater street projects and delay these projects until a future year.

- 3) Seek the Board's authorization to allocate additional sales tax funding to the Street Improvement District 445 project, allowing the project to proceed as bid.

Neither Option 1 or Option 2 is aligned with the Board's goals and objectives as contained within the newly adopted city of Bismarck Strategic Plan (Community Services: Infrastructure). Delaying six blocks of hard surfacing street reconstruction or postponing an entire project such as the proposed Continental Avenue groundwater project could possibly require additional maintenance expenditures by the Public Works Streets Department until such time as the funding was secured and the project was under contract.

Option 3 would require the Board to authorize an additional \$328,107 of sales tax funding to Street Improvement District 445. This option has been discussed with the Budget Committee and received its consensus endorsement. Staff's recommendation is that the Board authorize the additional sales tax funding amount, allowing the project to proceed as initially planned. A project budget sheet was provided to the Board assuming Option 3.

Commissioner Grossman also moved that the Board approve Option 3 by authorizing an additional \$328,107 of sales tax funding to Street Improvement District 445. Commissioner Askvig seconded the motions on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

6. The Board of City Commissioners considered the final plat for Meadowlark Commercial Sixth Addition, requested by MDS Properties, LLC. Bismarck Planning & Zoning Commission recommends approval.

Kim Lee, Community Development Planning Manager, said MDS Properties, LLC is requesting approval of the final plat for Meadowlark Commercial Sixth Addition. The property is located north of 43rd Avenue NE along the west side of North 19th Street. The proposal includes five lots in one block on 45.64 acres. The project is a replat of Lots 1-6, Block 2, Lots 1-6, Block 4 and Lots 1-4, Block 5, Meadowlark Commercial Third Addition in the W ½ of Section 15, T139N-R80W/Hay Creek Township. It will reconfigure the property to allow for development of multi-family residential and unspecified commercial uses. The property is already zone for CG-Commercial which is also appropriate for the proposed use and the property was recently annexed into city limits.

The Bismarck Planning & Zoning Commission held a public hearing on March 28, 2012 and based on the findings contained in the staff report, recommended approval of the final plat for Meadowlark Commercial Sixth Addition and granting a waiver to exceed the maximum block length because the block is so long from north to south. No one appeared at the public hearing on March 28.

There were no written or oral protests.

Commissioner Seminary made a motion to approve the request. Commissioner Smith seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried.

7. The Board of City Commissioners considered the request from Public Works Utility Operations Department for approval of Engineering Services Agreement for Wachter Avenue Lift Station evaluation, master plan and force main design.

Staff recently used the city's consultant selection process to solicit engineering services for the Wachter Avenue Lift Station. The Apex Engineering Group was the selection committee's recommendation for this work. Staff has subsequently met with the Apex team and has agreed upon a scope of work and budget for this project. A copy of the proposed engineering services agreement was provided to the Board.

This project includes the development of three work products. The first is a condition assessment of the station and an evaluation of the station's capabilities to meet current and future needs, including recommendations for operation and maintenance needs. The second work product is a master plan for future improvements to the lift station to allow it to meet the future demands of its service area. This will include a complete review of alternates including rehabilitation, equipment replacement or new construction. The plan will include sizing and layout information for the proposed lift station improvements along with cost estimates, construction phasing and operational recommendations. This master plan will be used as the basis for future design and construction projects to implement the recommended improvements.

In addition, the consultant will design and provide construction support services for a second force main from this lift station to Washington Street. This will provide complete redundancy of the force mains from our master lift stations and will eliminate the problem staff experienced earlier this year when they had to shut the single force main from this station down for repairs. This will allow staff to assess the condition of the existing force main and correct deficiencies when staff can safely take it out of service in the future.

Staff requests the Board authorize them to enter into an agreement with Apex Engineering Group to complete this work. The maximum contract amount for this project is \$370,536 and will be billed on an hourly basis for the actual work done. This project will be funded from the Sanitary Sewer Utility.

Commissioner Askvig was involved in this process and he feels both options were really good. As part of the strategic plan and looking long term, this work is very important, even though it may be mundane and doesn't seem very important. He also thanked the

Public Works Utility Operations staff for their hard work during the two breaks that occurred earlier this spring.

Commissioner Seminary made a motion to approve the request. Commissioner Grossman seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Naves: None, the motion carried.

8. Receive and consider disposition of bids and project budget for reconstruction of the Airport Rescue and Fire Fighting (ARFF) Apron.

Commissioner Seminary removed himself from the table relating to this agenda item since it deals with his employer.

On October 11, 2011, the Board of City Commissioners approved an agreement with Kadrmas, Lee & Jackson (KLJ) for design and construction of the ARFF Apron. The old apron has reached the end of its useful life and needs replacement.

The project is in the Airports approved Passenger Facility Charge (PFC) #5 which will reimburse 100 percent of the project cost. The apron will be funded initially with Airport cash reserves until reimbursement is complete.

Greg Haug, Airport Manager, appeared before the Board to present the bids received:

BIDDER	TOTAL BASE BID*
Northern Improvement Company	\$237,926.60
Strata Corporation	\$316,192.55
* Engineer's Estimate = \$239,087.90	

Airport staff recommends the Board award the bid to the low bidder, Northern Improvement, for \$237,926.60 and approve the project budget.

Commissioner Askvig made a motion to award the low bid to Northern Improvement for \$237,926.60 and approve the project budget. Commissioner Grossman seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Smith, Askvig, Grossman and President Warford. Naves: None, the motion carried. Commissioner Seminary was absent and not voting.

Commissioner Seminary rejoined the table.

9. Receive and consider disposition of bids for tree debris cleanup from levee construction activities.

Jeff Heintz, Public Works Service Operations Director, appeared before the Board and presented the bids received:

BIDDER	TOTAL SUM BID
Northern Improvement	\$67,869.00
Tom's Backhoe Service	\$195,290.00

Forestry staff reviewed the bids and determined that the best and lowest bid is from Northern Improvement in the amount of \$67,869. Funding for this work is covered by a FEMA reimbursement in the amount of \$41,844. The balance of the expense for this project will need to be covered by funds left over from other FEMA reimbursed small projects. Administration and Finance will conduct this expense balancing at the completion of all our small projects.

Commissioner Grossman made a motion to award the bid to Northern Improvement for \$67,869. Commissioner Askvig seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried.

10. Receive and consider disposition of bids for trailer to be used for temporary Missouri Riverboat operations.

Bill Wocken, City Administrator, appeared before the Board and said there would be several other improvements needed in addition to the trailer. The current lease with the riverboat pertains to the existence of the building which is uninhabitable. It is suggested that the Riverboat give up its current lease and receive in exchange a lease allowing for continued operation of the Riverboat from the Port of Bismarck. The compensation to the city could remain at the present level, one percent of total gross sales.

If the lease agreement is agreeable to the Board, it is also suggested that certain improvements need to be made at the site. The first improvement would be the temporary office/depot/trailer. The trailer would be forty-feet long and eight-feet wide that would be used as the Riverboat office.

Mr. Wocken presented the trailer bids received:

BIDDER	TOTAL SUM BID
Extreme Sales	\$32,792
OT Trailers	\$29,956

After having reviewed the bids against the specifications, staff recommends awarding the bid to OT Trailers as the low bidder. That trailer would be in the city's name but available to the Lewis & Clark Riverboat to use for the season.

In addition to the trailer, staff believes they need to reestablish electrical service to the shore box, which is estimated at \$9,500. Staff requests authorization to receive quotes

for that work. A new electrical transformer is also necessary, which Montana-Dakota Utilities will install for the city for \$850. In addition, some minor work needs to be done to reestablish on-site water and sewer that used to run through the depot building. This could be done outside the building for approximately \$2,000. There are repairs that need to be made to the parking lot and Jeff Heintz, Service Operations Director, has estimated those costs to be \$15,250. There will also be work necessary to replace the dock access road and pad by the loading point. All the work replacing the boat docking equipment, gang plank, and the boat ties would be carried out by the Riverboat, which are things they have already committed to do.

Mr. Wocken requested: permission to award the trailer bid to OT Trailers for \$29,956; permission to get quotes for electrical service to the shore box; authorize the replacement of the electrical transformer (for riverboat and lift station on site); authorize onsite water and sewer; allow Mr. Heintz to put bid specifications together for the parking lot repair.

Commissioner Askvig made a motion to award the trailer bid and approve the requests. Commissioner Seminary seconded the motion. Commissioner Grossman asked the maker and seconder of the motion allow the motion to be amended to authorize expenditures to be taken from the hotel/restaurant liquor tax for these items specified. This was agreeable to the maker and seconder. Commissioner Seminary asked if there was a way to give Mr. Wocken some parameters for the loading dock repair so he doesn't have to come back before the Board. Mr. Wocken said it would be helpful but he's unsure of what that repair would cost; perhaps around \$20,000. Commissioner Grossman asked about authorizing an amount not to exceed \$40,000. He said Mr. Wocken could always come back before the Board but he's concerned about timeliness. Charlie Whitman, City Attorney, said we need to know what we're bidding; what repairs need to be done, what it needs to look like. Mr. Wocken suggested the Board authorize staff to prepare a bid document based on an estimate; there are separate processes for items under \$15,000 and over \$15,000. Commissioner Seminary asked if there were parameters between \$20,000 and \$40,000. He suggested the project, limited to \$40,000, move forward, then come back after the fact since time is of the essence. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried.

11. The Board of City Commissioners considered the ongoing project agenda.

Commissioner Grossman mentioned the Downtown Parking Task Force held their second meeting today and discussed a number of discussion items. They are moving forward and having some great discussions but wanted to let the Board know they have given the green light to proceed with the original boundaries of the new re-parking zone approved by this Board.

EXECUTIVE SESSION:

Commissioner Askvig made a motion to go into executive session. Commissioner Grossman seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried.

12. The Board of City Commissioners considered the request from City Attorney for the City Commission to hold an executive session under NDCC Section 44-04-19.2 regarding contract negotiation/negotiation strategy under NDCC Section 44-04-19.1(9) and economic development information under NDCC Section 44-04-18.4(5) for the following item:

- Consideration of the potential purchase of land at the Northern Plains Commerce Centre (NPCC) by Apple Creek, LLP.

Commissioner Askvig made a motion to come out of executive session. Commissioner Grossman seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried.

The Board reconvened.

Commissioner Grossman made the motion to accept the purchase offers from Apple Creek LLP as discussed. Commissioner Seminary seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Seminary, Smith, Askvig, Grossman and President Warford. Nays: None, the motion carried.

Having completed the items on the agenda, President Warford asked if there was any further business for this meeting. There being none, the meeting was declared adjourned at 6:36 p.m.